IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

C.W.P. No.4407 of 2005
Date of Decision: 21.5.2007

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Lachman and others Vs. State of Haryana and others

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Present : Mr. Sanjiv Gupta, Advocate for the petitioners.
Mr. Anil Rathee, Addl.A.G. Haryana for respondents no.1 to 4.
Mr. P.K. Ganga, Advocate for respondents no.5 and 6.

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CORAM : HON'BLE MR.JUSTICE P. SATHASIVAM
HON'BLE MR.JUSTICE RAJIVE BHALLA

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1. Whether Reporters of Local Newspapers may be allowed to see the judgement ?
2. To be referred to the Reporters or not ?
3. Whether the judgement should be reported in the Digest ?

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RAJIVE BHALLA, J

Challenge in this writ petition is to orders dated 25.8.2000, 3.5.2001 and 23.11.2004, passed by the Divisional Canal Officer, respondent no.2, the Superintending Canal Officer, respondent no.3 and the Chief Canal Officer, respondent no.4.

The dispute in the present case pertains to transfer of land belonging to the private respondents to out let RD 27880-L, Bani Disty, Village Chamal,Tehsil and District Sirsa. Counsel for the petitioners contends that the authorities below have erred in transferring the private respondents land, to the aforementioned out let. It is contended that on two

separate occasions, other co-sharers had made similar requests. The first such request was declined by the Superintending Canal Officer, vide order dated 12.4.1983. Another request was declined by the Chief Canal Officer, vide order dated 24.10.1997. It is contended that in the order dated 24.10.1997, the Chief Canal Officer specifically recorded a finding that there is hardly any scope for further addition of any area to the `chuk' of out let RD 27880-L Bani Disty. It is, therefore, contended that the authorities erred in transferring the private respondents land to this outlet.

It is further urged that the Chief Canal Officer dismissed the petitioners revision against the order of the Divisional Canal Officer dated 25.8.2000 on 25.3.2002. This order was impugned in C.W.P. No.6464 of 2002. Vide order dated 20.1.2004, the aforementioned order was set aside as the order lacked the requisites of a judicial/quasi judicial order. The matter was remitted to the Chief Canal Officer for a fresh decision. It is contended that the Chief Canal Officer has once again, failed to adjudicate the main grievance namely; whether there was any scope for further addition of land to out let RD 27880-L.

Counsel for the respondents, however, states that the order is legal and valid. The learned Chief Canal Officer has specifically held that the problem has arisen on account of remodelling of lined water course. The percentage irrigation of both the chuks is more than projected. As reasons have been assigned, for dismissing the revision, the present petition be dismissed.

We have heard learned counsel for the parties and perused the paper book.

Though the learned Chief Canal Officer has passed a reasoned

order, the reasons so recorded, in our considered opinion do not deal with the controversy in hand. The sole question that required adjudication was whether there was any scope for further addition of land to out let RD 27880-L Bani Disty. A perusal of the impugned order does not disclose any such consideration/adjudication. Consequently, we are of the opinion that the impugned orders should be set aside and the matter should be remitted to the Chief Canal Officer for adjudication, afresh, in accordance with the facts noticed herein above.

The present writ petition is allowed and the order passed by the Chief Canal Officer dated 23.11.2004 is set aside. The matter is remitted to the Chief Canal Officer. Parties are directed to appear before the Chief Canal Officer on .7.2007. The learned Chief Canal Officer shall decide the proceedings within a period of one month from the aforementioned date.

The present writ petition is disposed of accordingly.

(RAJIVE BHALLA)
JUDGE

21.5.2007
GS

(P. SATHASIVAM)
JUDGE